

1 B. Pierce - by Mr. Eddy

2 (Discussion was held off the
3 record.)

4 A. There's a lot of stuff in quotes
5 here that I didn't say that's here, and, again,
6 they are partial statements and fabrications of
7 things put together back and forth. Just -- in
8 my opinion, this is another example of an
9 attempt to retaliate against me for --

10 Q. Tell me in what particulars you
11 agree with, disagree, or how they are taken out
12 of context.

13 A. All of it so far. I'm down to about
14 halfway down that first paragraph -- that
15 paragraph.

16 Q. You didn't say you understand the
17 policy on taking medications to the RHU?

18 A. I said that.

19 Q. Okay.

20 A. In the course of conversation, I was
21 asked if I understood the policies. That had
22 been asked on numerous occasions while
23 answering false allegations against me. Again,
24 a lot of this -- I didn't say some of the stuff
25 and --

1 B. Pierce - by Mr. Eddy

2 Q. You disagree that on the night of
3 April 5, that you pulled the inmates' names and
4 PRN medications out of the RHU book, checked to
5 see who was due medications?

6 A. Yes.

7 Q. Prepoured medications in the cups in
8 the medications room, three separate cups
9 taken, no book, about six pills were taken to
10 RHU to be dispensed? Do you disagree with
11 that?

12 A. I do because that statement of I
13 prepoured medications, and that's what was
14 alleged against me, that's not something that I
15 said.

16 Q. Are you denying that you prepoured
17 medications?

18 A. I am denying that. I didn't do it
19 because I knew at this point where we were
20 going, knowing that at this point I was being
21 retaliated against for my EEOC Complaint that
22 led to Chris Massung's leaving the Department
23 of Corrections, and also because I had brought
24 testimony, written testimony, against other
25 females.

1 B. Pierce - by Mr. Eddy

2 I'm a male who is making testimony
3 against females in my profession, either at my
4 grade or higher. Nothing's being done to them,
5 but here I am sitting here answering
6 allegations of things that they had no proof
7 of, and all they did was fabricate this.

8 Q. You are saying all these people
9 referenced in here are all fabricating
10 allegations against you? Zuber, Kidd, all
11 these people have it out for you? Is that your
12 position?

13 A. No. My position is that statements
14 taken were altered, changed, or people were
15 never even contacted to do this. I don't know
16 who made the allegations against me.

17 Q. Who wouldn't have been contacted?

18 A. I don't know if anybody was
19 contacted or in -- I don't recall if they were
20 contacted or not contacted, but it's as easy as
21 saying --

22 Q. Well, there's obviously references
23 of people being contacted and giving statements
24 here. So who do you think was not contacted
25 that would have altered these statements?

1 B. Pierce - by Mr. Eddy

2 A. It's the possibility that some,
3 none, or all. I could say that, you know, I
4 contacted Mr. Sanders, say that I saw you
5 letting air out of his tires, but I in fact
6 never contacted him. These are just fabricated
7 statements.

8 Q. That's what I'm asking you, how are
9 they fabricated?

10 A. A lot of stuff I never said. Some
11 of the stuff that's in quotes, like I prepoured
12 medications in cups in the medication room,
13 three cups, three separate cups taken, no book,
14 about six pills were taken to RHU to be
15 dispensed, that was the allegation against me.
16 I never stated that.

17 so they are putting in quotes saying
18 that I said these things and admitted to these
19 things, and I didn't. And this is all just
20 their attempt to retaliate against me for my
21 EEOC Complaint and my writing up my female
22 counterparts in an attempt to discriminate
23 against me and get me out of there.

24 some of these things are -- the
25 quote in here about the Milk of Magnesia, where

1 B. Pierce - by Mr. Eddy
2 is that at? This is referencing to -- I'm
3 sorry, it doesn't actually say Milk of Magnesia
4 on here, but it says here, then RN Zuber
5 returned and stated he talked to CO Kidd and
6 "best to give it to avoid a problem than not to
7 give it." I recall that conversation with him.

8 Q. Did you state the book said every
9 third night and she wasn't due the medication
10 tonight?

11 A. Yes, I did.

12 Q. Okay.

13 A. Because we actually went to the
14 medication book. Mr. Zuber had called Officer
15 Kidd -- or I take that back. Strike that.

16 officer Kidd called Mr. Zuber to
17 tell him that I had refused to give an inmate
18 medication, when I had told the officer that I
19 would go back to check to be sure if she was
20 due to receive that medication.

21 The policy and procedure for that
22 area was to call up there before doing
23 medication line to see who needed as-needed
24 medications. That inmate was on an as-needed
25 medication, didn't request it.

1 B. Pierce - by Mr. Eddy

2 Q. Okay.

3 A. By the time I got back, Mr. Zuber
4 was thoroughly enraged about Officer Kidd, you
5 know, jumping through -- trying to get him to
6 do all these things. He had actually made it
7 halfway up to the RHU with the bottle of Milk
8 of Magnesia when I showed him the book and
9 said, "She's not due." That it just had been
10 given the previous night.

11 Q. It says here, "RN Zuber stated gave
12 the inmate some the previous night." You are
13 not saying you gave it to her, are you?

14 A. No, no. RN Zuber did give it the
15 previous night.

16 Q. Did you then call Kidd back and ask
17 why she called another nurse to bring the
18 medication over when you said you would take
19 care of it?

20 A. Yes, I did.

21 Q. She had no response?

22 A. Correct.

23 Q. And you asked a second question, why
24 did you do a end around, go around me, the CO
25 had no response?

1 B. Pierce - by Mr. Eddy

2 A. No.

3 Q. You didn't make that statement?

4 A. No.

5 Q. Did you ask a third question that
6 resembled the first two?

7 A. No.

8 Q. Did you say, I didn't appreciate her
9 letting the inmates split staff?

10 A. No.

11 Q. Did you want to -- go to the next
12 page.

13 A. In this first paragraph, they are
14 referencing back to that meeting that I had
15 with Mrs. Giroux. Again, those were
16 allegations against me back then that were
17 never proven. These notes are just being
18 inserted here to bolster their very weak
19 attempt to, you know, impose discipline on me.

20 Q. So you deny --

21 A. It's retaliation.

22 Q. You deny that you said you were
23 under a lot of stress and emotion and maybe
24 that's why you can't clarify on this issue?

25 A. The clarity of the issue was in

1 B. Pierce - by Mr. Eddy

2 recollection to --

3 MR. SANDERS: That's not the
4 question. The question is did you say that?

5 THE WITNESS: Oh, yes, I said
6 that.

7 Q. How about the next paragraph? Next
8 topic of discussion.

9 A. That's all.

10 Q. Next paragraph. What is the RSAT
11 program?

12 A. I believe it stands for the
13 Rehabilitative Substance Abuse Treatment
14 program.

15 Q. Treatment? Okay.

16 A. No, I never had these conversations
17 with the inmates. These are false statements.

18 Q. So you are saying that that's in
19 quotes as something you said, you never made
20 that statement, "yes, about a bunch of topics"?

21 A. Correct.

22 Q. "Did you tell the inmates you were
23 going to quit and become a counselor?" "Yes,
24 after the inmates asked what was wrong that I
25 hadn't been myself lately. I told them I was

1 B. Pierce - by Mr. Eddy
2 really stressed out and had a lot of health
3 problems from this place and that I was looking
4 for another job, I also told staff I was
5 looking. You know there are no secrets in
6 jail." You never made that comment?

7 A. No.

8 Q. You weren't looking for another job?

9 A. I was, but I wasn't telling anybody
10 else that. That was under the advice of my --

11 Q. Your doctor; correct?

12 A. My doctor, correct.

13 Q. You don't disagree that you weren't
14 yourself lately and so forth, do you?

15 A. No. I was under a tremendous amount
16 of stress.

17 Q. See down about in the middle it
18 says, "I told the inmates I was seeking a job
19 as counselor but not at this institution. It
20 will probably one to two years at length prior
21 to leaving. They expressed sorrow at my
22 leaving because I'm the only one who cares,"
23 you have no recollection of that?

24 MR. SANDERS: Hold on a
25 second. Take a break here.

1 B. Pierce - by Mr. Eddy

2 (Recess was taken.)

3 BY MR. EDDY:

4 Q. I'm not sure where we were here. I
5 think we were on the bottom paragraph of
6 Page 3. I read to you the sentence about I
7 told inmates I was seeking a job as counselor
8 but not at this institution, and I think you
9 said that you didn't make those comments?

10 A. Correct.

11 Q. Is it your position that you never
12 spoke to inmates at all about your personal
13 situation?

14 A. No, I have never spoken to them
15 about my personal situations.

16 Q. Or about leaving?

17 A. No.

18 Q. What about telling the inmates that
19 this RSAT program was a joke?

20 A. I never said that to the inmates.
21 That would have undermined the credibility of
22 the program.

23 Q. So you also then deny that you would
24 have told Nancy you were commenting on the
25 highlights of the conversation, that's a

1 B. Pierce - by Mr. Eddy

2 negative reference, I was engaging the inmates
3 in a conversation which is a commonly held
4 belief by the inmates and then we transitioned
5 that into a conversation about RSAT?

6 A. I never made those comments.

7 Q. Did you have a conversation with
8 Nurse Zuber, Nurse Pietrzak, and Nurse Heffern
9 about RSAT, not giving the inmates the current
10 tools necessary in order to succeed in society?

11 A. I had a conversation with them about
12 that. It was initiated by Nurse Pietrzak about
13 a new admission into the facility.

14 Q. Did you have a good laugh about
15 inmate Morales who returned to jail after four
16 months after being a recent RSAT graduate?

17 A. Actually, that was a comment made in
18 direction to Pietrzak and Heffern, the two
19 female nurses that were there. Nurse Pietrzak
20 had processed inmate Morales back in, and she
21 made a comment about that being a statement of
22 how well of a program or how good of a job that
23 program actually did. Because Morales was a
24 graduate of the RSAT program, and she was going
25 back in and reoffending on a drug charge.

1 B. Pierce - by Mr. Eddy

2 Q. You don't recall saying that your
3 conversations with inmates were before the
4 conversations with nurses?

5 A. No. I didn't have any conversations
6 with the inmates about RSAT.

7 Q. So that then you deny the remainder
8 of that paragraph then?

9 A. Yes, I do.

10 Q. Total fabrication?

11 A. Complete fabrication.

12 Q. She just made all of this up?

13 A. To say this to the inmates would
14 have been grounds for termination.

15 MR. SANDERS: The question was
16 did she make it all up?

17 THE WITNESS: Oh, yes.

18 Q. So you never told the inmates you
19 wanted to leave but not yet? The inmates
20 didn't express sorrow to hear you were leaving?

21 A. No.

22 Q. Didn't tell you you were the only
23 one who cares?

24 A. No.

25 Q. Go to Exhibit O.

1 B. Pierce - by Mr. Eddy

2 (Pierce Exhibit O was marked
3 for identification.)

4 Q. I think this is pretty much the same
5 as the last. It's another fact-finding of
6 April 11, '02. Does that sound right, Brian?

7 A. Yes.

8 Q. That's dated April 12 of '02, same
9 date as the other exhibit?

10 A. Yes.

11 Q. So this is the same day. Do you
12 remember these allegations being made against
13 you there?

14 A. Yes, I do.

15 Q. Do you remember this fact-finding
16 session?

17 A. Yes. It was in conjunction with the
18 last one.

19 Q. Again, I'm going to have to ask you
20 to read this and tell me where you disagree
21 with any characterization of your statements or
22 conduct.

23 A. The first page is correct.

24 Q. Okay.

25 A. This statement in there at that top

1 B. Pierce - by Mr. Eddy
2 paragraph in regards to the RHU incident on
3 4/7/02, "Mr. Pierce stated that he did deliver
4 the medication to the RHU in cups in his
5 pocket," I did not -- I stated that I did not
6 deliver the medication. The word not was left
7 out of that.

8 Q. The next sentence right after that
9 says, "He stated he knows what is expected of
10 him after our conversation on Monday, 4/8/02.
11 Does that refresh your memory of who that
12 meeting might have been with on April 8 of '02?

13 A. This document is from Nancy Giroux.
14 If she's referring to that same document that
15 we were before, then it would have been with
16 her.

17 Q. Right. That's what I was asking
18 you.

19 A. Okay. So, yes, with the exception
20 of that RHU --

21 Q. Statement above?

22 A. -- statement, the rest of that is
23 correct. That's correct.

24 Q. Okay.

25 MR. SANDERS: We are going on.

1 B. Pierce - by Mr. Eddy
2 to the paragraph, "we then discussed his
3 conversation"?

4 THE WITNESS: Correct.

5 MR. SANDERS: Are you there?

6 THE WITNESS: Yes. That's
7 just a refabrication of the fabrication in the
8 previous document. All she did was reword in
9 her own words the untrue statements that she
10 had written down in the previous document.

11 BY MR. EDDY:

12 Q. So you are saying that that bottom
13 paragraph on Page 2 is totally false?

14 A. That's correct.

15 Q. You had no conversation whatsoever
16 about the RSAT program or --

17 A. Not with the inmates.

18 Q. With -- oh, okay. Right.

19 A. And that portion of that top
20 paragraph that finishes the paragraph in the
21 previous page, again, that's part of the --

22 Q. What about the next one?

23 A. Again, that's -- I wasn't there. I
24 don't know who said what or if she -- she
25 actually investigated --

1 B. Pierce - by Mr. Eddy

2 Q. That's actually not a fair question
3 for you.

4 A. Yeah, it's not.

5 Q. Let's look at Exhibit P.

6 (Pierce Exhibit P was marked
7 for identification.)

8 MR. EDDY: Do you want to keep
9 going?

10 (Discussion was held off the
11 record.)

12 BY MR. EDDY:

13 Q. P, this is a document dated
14 April 16, 2002?

15 A. Uh-huh. Yes.

16 Q. It references essentially a
17 fact-finding on 4/15 of '02?

18 A. Yes.

19 Q. Now, this one's a little different.
20 Is it Ms. Raun?

21 A. Sharalee Raun.

22 Q. She was present with you at this
23 meeting, also?

24 A. Yes.

25 Q. This would appear to be transcribed,

1 B. Pierce - by Mr. Eddy

2 your understanding.

3 A. Yes, I believe that's correct.

4 Q. So we agree the subject matter of
5 this document is not only the April of 2002
6 incidences, but also the March of 2002
7 incidences as well?

8 A. Yes.

9 Q. Now, in this statement -- again, you
10 can see that on Page 2, alleged incidences
11 include reports of the following, you can see
12 there's a little synopsis there. There aren't
13 really very many statements in here that are in
14 quotes, but let's look at them separately.
15 This one's not very long.

16 But can you tell me if any of those
17 statements in there you disagree with as being
18 made by you?

19 A. In that first paragraph, as I
20 previously testified, just jumping down to the
21 bottom of that, the quote in quotes states,
22 "They came late, fault doesn't matter." I
23 never made that statement.

24 Q. As quoted or --

25 A. At all. Even in context, there's no

1 B. Pierce - by Mr. Eddy

2 way that -- I mean, I never made anything like
3 that kind of statement to anybody. That's --
4 those are not my words. Those were added in.
5 It's a fabrication.

6 Q. I think you testified a little bit
7 earlier that you agreed that they came late and
8 fault didn't matter, and that's why you didn't
9 open the window. Are you disputing that now
10 or --

11 A. Those aren't the exact words.

12 Q. Okay.

13 A. We were not in dispute of them
14 coming late, which is correct. They did come
15 late, but I did not make the statement they
16 came late, fault doesn't matter, and I never
17 agreed to or said that fault doesn't matter.

18 Q. Well, your decision to not give them
19 medication then, was it only based on the fact
20 that in your opinion there was no
21 life-sustaining drugs that needed to be
22 dispensed to any of those three inmates?

23 A. That was the initial conversation
24 that I had with Nurse Eldred, Lil Eldred, about
25 that. When she said, just go get them the

1 B. Pierce - by Mr. Eddy

2 medication, I said, fine, I'll do it. I went
3 in and I did it. So they got their medication.

4 Q. Anything else -- second paragraph,
5 anything you disagree with in there?

6 A. No.

7 Q. Next paragraph, beginning with "on
8 April 1, 2002"?

9 MR. SANDERS: There's two of
10 those --

11 MR. EDDY: I'm sorry, the
12 second one.

13 MR. SANDERS: The one that
14 goes on to say you ordered a 60-day supply?

15 MR. EDDY: Right. Right.

16 A. No, this is -- again, the incidences
17 stated in here are only based partially in
18 fact. The rest of it is fabrication.

19 Q. What portion of it is a fabrication?

20 A. Speaking through hush tones.

21 Q. It says -- the last sentence is the
22 one you really dispute?

23 A. Yes.

24 Q. The hush tone part of it or the
25 passing of a note, period?

1 B. Pierce - by Mr. Eddy

2 A. The passing of a note, period. I
3 don't recall ever doing that with her.

4 Q. When you say her, who do you mean
5 her?

6 A. Inmate DiGiovanno.

7 Q. You think that's a reference to
8 DiGiovanno?

9 A. Yes.

10 Q. All right. So the last sentence you
11 dispute?

12 MR. SANDERS: Just so Tom and
13 I understand, why are you saying that? I'm
14 going to point to it. I don't want to say it
15 on the record. Because of that
16 characterization of her, the inmate? Is that
17 how you know it is --

18 THE WITNESS: We --

19 MR. SANDERS: Because of those
20 words?

21 THE WITNESS: Yes, those three
22 letters.

23 MR. SANDERS: That are in --

24 MR. EDDY: Yes, I understand
25 what you are saying.

1 B. Pierce - by Mr. Eddy

2 MR. SANDERS: I don't have the
3 guts to repeat that.

4 BY MR. EDDY:

5 Q. Are we on the April 5 paragraph now?
6 Is that what you are reviewing?

7 A. Yes. And, again, this is, as I
8 testified earlier, this is just a complete
9 bogus retaliatory strike against me. It's a
10 bogus complaint. There is no proof that I did
11 these things, and they were just false
12 allocations across the board.

13 Q. So you categorically deny the entire
14 paragraph?

15 A. Yes.

16 Q. You deny the last sentence, the
17 correct procedures for delivering medications
18 to the RHU were specifically addressed with you
19 on March 11, 2002?

20 A. No.

21 Q. You don't dispute that?

22 A. No. Because those procedures were
23 discussed regardless of my testimony to
24 Ms. Giroux about the allegations presented to
25 me or about me and taking the stuff to the RHU.

1 B. Pierce - by Mr. Eddy

2 Q. What about the sentence right above
3 that, the shift commander questioned you about
4 the procedures for delivering medications to
5 the RHU, you called the RHU officer and became
6 confrontational and questioned her about this
7 issue?

8 Without maybe the confrontational
9 part, would you otherwise agree with that
10 sentence?

11 A. Yes.

12 Q. How about Page 3? Beginning with
13 April 9.

14 A. Fabrication.

15 Q. Okay.

16 A. No basis in fact.

17 Q. Next paragraph?

18 A. Again, fabrication, retaliation for
19 my EEOC Complaint and reporting other female
20 nurses for actually doing these things.

21 Q. The entire paragraph?

22 A. The entire paragraph.

23 Q. What about borrowing medications
24 from other inmates' cards? Didn't you
25 acknowledge that you had done that?

1 B. Pierce - by Mr. Eddy

2 MR. SANDERS: I appreciate the
3 clarity.

4 MR. EDDY: We will go to the
5 next exhibit, if you -- sorry.

6 MR. SANDERS: No, I have
7 nothing else.

8 BY MR. EDDY:

9 Q. Do you have it?

10 A. Exhibit R?

11 Q. To the next. In Q, to the next
12 letter, which is the one your attorney just
13 referred to. It's dated April 30 of 2002. Do
14 you see that?

15 A. Yes.

16 Q. Hold on a second here. That's -- is
17 that to Marilyn Brooks from Nancy Wirth? Yes.

18 A. Yes.

19 Q. Okay. I need you to read this and
20 basically go through this the same way we've
21 been going through the other documents with
22 respect to characterizations of your conduct or
23 statements.

24 Before you answer that, first of
25 all, this is a -- purports to be a synopsis

1 B. Pierce - by Mr. Eddy
2 from the actual PDC that was held on April 23
3 of 2002; right?

4 A. Correct.

5 Q. For the record, the first time you
6 saw Dr. Mercatoris was on 4/16 of '02; is that
7 right? Do you remember?

8 A. I believe that's correct.

9 Q. Exhibit A, to verify that if you
10 want here, he was initially seen on April 16 of
11 2002.

12 A. Yes.

13 Q. So you would agree that the first
14 time you saw him was April 16 of '02?

15 A. Yes.

16 Q. All right. Go ahead. I didn't mean
17 to interrupt.

18 A. That's okay. In the second
19 paragraph, the line stating, "The officer then
20 relayed to Mr. Pierce that the area sergeant
21 had questioned if the medication had in fact
22 been prepoured" -- strike that. I am sorry, I
23 was reading that sideways.

24 MR. SANDERS: This doesn't
25 have any quotes of yours, Brian. What are you

1 B. Pierce - by Mr. Eddy

2 asking him, Tom?

3 MR. EDDY: It's been
4 paraphrased, and I'm asking him to comment on
5 its accuracy.

6 MR. SANDERS: Okay.

7 BY MR. EDDY:

8 Q. We have, of course, been through
9 this before with the investigation that I think
10 did contain actual quotes.

11 A. The statement in that paragraph, "He
12 advised the team leader that his integrity and
13 character was on the line and that he would do
14 what he had to do," I never said those words.

15 Q. Okay.

16 A. That's a fabrication.

17 Q. It states in the next sentence that
18 "He then told the building three officer that
19 he wanted one unit/floor at a time called which
20 was not a normal practice."

21 A. Did not tell the officer to do that.
22 That was a recommendation by the officer to do
23 that, cleared through Nurse Eldred,
24 Mrs. Eldred.

25 Q. Even though I read you your own

1 B. Pierce - by Mr. Eddy
2 statement that said you did instruct him to do
3 that?

4 A. Right. The statement that I had
5 written down was at the direction of Lieutenant
6 Bossard based on paraphrasing what had been
7 said throughout the conversation. Let me
8 rephrase that.

9 The statement that I told the
10 officer to do this implied that I directed the
11 officer to do that. It was my decision. I
12 told the officer that we were going to do it
13 that way, yes, but it was from the approval and
14 direction of Nurse Eldred, who did not
15 physically speak to the officer.

16 So, semantically, I told the officer
17 that that's what we were going to do, but it
18 was the officer's suggestion through Nurse
19 Eldred through me back to the officer.

20 Q. Right. You testified to that.

21 A. Okay. Next page. The entire
22 paragraph top of Page 2 is fabrication. It's
23 false.

24 Q. You dispute there you acknowledged
25 that you were upset by security questioning

1 B. Pierce - by Mr. Eddy
2 your integrity and character by checking on the
3 short duration of the medication line and
4 questioning you about prepouring medications?

5 A. Yes.

6 Q. That didn't upset you?

7 A. It didn't upset me, it didn't
8 happen.

9 Q. You weren't questioned?

10 A. I don't recall ever being questioned
11 about that. I know that they have asked about,
12 you know, the line going so long, but it had
13 nothing to do with the retaliation against
14 Sergeant Sittig as alleged in the -- in one of
15 the previous exhibits that we have.

16 Q. Yes, I'm not asking -- again, just
17 to be clear, I'm not asking you to comment on
18 any conclusions that are reached in here. For
19 example, when it says, "It is evident that he
20 directed," I'm not asking you to comment on
21 that. Just the characterization of your
22 statements and your conduct is what we're
23 talking about here.

24 It wouldn't be fair for me to ask
25 you a question about whether or not it was

1 B. Pierce - by Mr. Eddy
2 evident or it's some legal conclusion that's
3 been drawn in here. I think that's where most
4 of your concern comes from, and I just want to
5 make sure you understand I'm not -- I'm not
6 trying to get you to admit any ultimate
7 conclusions in here. Okay?

8 A. So you are just asking me if the
9 paragraph itself --

10 Q. Did you make the statements, is it a
11 proper characterization of statements you made
12 and conduct? Not any conclusion that somebody
13 drew from that.

14 A. Okay.

15 Q. Okay?

16 A. I said no. This --

17 Q. I'm not trying to be the fact finder
18 here in terms of whether you violated a policy
19 or something like that.

20 A. All right. So in response to that,
21 my -- your question and your statement about
22 how I should read these, I do not agree with
23 that paragraph. We've discussed that.

24 Q. Right.

25 A. I just wanted to clarify what we

1 B. Pierce - by Mr. Eddy
2 were talking about.

3 Q. But that's why I just asked you
4 whether or not you acknowledged and you were
5 upset by being questioned about the short
6 medication lines and about whether or not
7 somebody accused you of prepouring medicine,
8 and you are stating that that's a lie, that you
9 weren't upset and you didn't acknowledge that?

10 A. Right.

11 Q. All right. Just to make sure we are
12 both on the same page.

13 A. The very long paragraph on Page 2,
14 I -- overall, in general, I do not agree with
15 the characterization of my statements and what
16 happened.

17 Q. So that would be the statement that
18 "Mr. Pierce admitted during the statement
19 provided prior to the PDC that he was surprised
20 to see an inmate standing at the medication
21 line window five to ten minutes after the
22 medication line was closed"?

23 A. No. That's true.

24 Q. How about the next one, "He stated
25 he explained to her the medication line had

1 B. Pierce - by Mr. Eddy

2 closed and instructed her to leave but she
3 refused"?

4 A. That's correct.

5 Q. "During that time, two other inmates
6 arrived waiting their medications and he
7 instructed the officer to have the inmates
8 leave"?

9 A. That's correct.

10 Q. "He states that he was asked by the
11 team leader why there were inmates waiting for
12 medication, and that his response was that the
13 medication line had been closed for almost ten
14 minutes before they had arrived and that none
15 of them were on mandatory or life-sustaining
16 medications"?

17 A. That's correct.

18 Q. Okay. Did you state that the team
19 leader then directed him to open -- you to open
20 the medication line and you did so under
21 protest?

22 A. Yes.

23 Q. During the PDC, you responded when
24 questioned that you were "pretty sure the
25 anti-epileptic drug in question was not

1 B. Pierce - by Mr. Eddy

2 life-sustaining"?

3 A. I didn't say that.

4 Q. Do you think it was life-sustaining?
5 You said it was Phenobarbital earlier when I
6 asked you about seizures.

7 A. This was not a life-sustaining
8 medication for this inmate.

9 Q. In your opinion?

10 A. Mine and the pharmacy.

11 Q. Is that a doctor's opinion?

12 A. The doctor agreed with the pharmacy.

13 Q. What doctor?

14 A. I believe it was Dr. Sellaro that
15 was on at the time.

16 Q. When did he agree with the pharmacy?

17 A. It was --

18 Q. After or before?

19 A. After or before what?

20 Q. After or before you didn't give this
21 inmate her medication?

22 A. That I don't recall. At this time,
23 I don't remember what the time frame was that
24 he agreed or disagreed or agreed to that, the
25 pharmacy's determination.

1 B. Pierce - by Mr. Eddy

2 Q. So when it goes on the next
3 sentence, "Although it was later established
4 that the drug in question was not considered
5 life sustaining for this inmate"; does that
6 answer that question?

7 A. No. This was something that was
8 investigated by Ms. Giroux, and she
9 concluded -- she basically verified the
10 information that I gave her, that the pharmacy
11 said that it was not a life-sustaining
12 medication, that I was correct in that
13 assessment of that.

14 Q. So you dispute that you admitted
15 that you weren't sure at the time, and it was
16 not until a later date that you called the
17 pharmacy to verify?

18 A. I do dispute that. It was the same
19 day that I called them.

20 Q. But would it have been before or
21 after the incident?

22 A. It would have been after.
23 Immediately following.

24 Q. All right. Did you claim during the
25 PDC that there was only one inmate when you

1 B. Pierce - by Mr. Eddy
2 refused to open the window?

3 A. No.

4 Q. You agree there were three?

5 A. Yes.

6 Q. Next one are conclusions. The next
7 page.

8 MR. SANDERS: Start at the
9 very top because it's a continuation from the
10 prior page.

11 Q. well, first part of that is a
12 conclusion that you don't need to comment on.

13 A. Which part of that? I'm sorry.

14 Q. The last sentence from the previous
15 paragraph on the top of Page 3.

16 MR. SANDERS: The one you do
17 need to comment on, the one that starts
18 "Mr. Pierce failed to follow." Do you agree
19 with that statement?

20 MR. EDDY: I don't think he
21 needs to comment on that because that's a
22 conclusion.

23 Q. But the second part, were you
24 directed three times before you finally did it
25 under protest?

1 B. Pierce - by Mr. Eddy

2 A. Yes.

3 Q. All right. Now, we're going to move
4 on to the April incidences.

5 MR. SANDERS: Isn't it just a
6 rehashing of the --

7 MR. EDDY: Yes. That's why I
8 thought this would go pretty quickly because
9 we've pretty much been through these.

10 A. Well, as a question, not to sound
11 hostile or anything, but as a question, why go
12 back through something we've already testified
13 to? I don't see the purpose of it?

14 Q. Well, I haven't examined it, you
15 know, line for line to see if there is anything
16 in there that's additional or different. It
17 will probably take another ten minutes or so to
18 go through these.

19 A. The last half of the first paragraph
20 starting "The PDC committee found statements
21 substantiated," there were no statements
22 substantiated.

23 Q. Again, it's something they found.
24 I'm not really asking you to comment on that.

25 A. But it's not right.

1 B. Pierce - by Mr. Eddy

2 Q. That's a matter of record. But up
3 until that where it says "the PDC," do you have
4 any problem with anything above that?

5 A. No.

6 Q. Starting with "On April 1, 2002,"
7 and ending with "this was verified by the
8 CHCA"?

9 A. Correct.

10 Q. The bottom part is a conclusion.
11 okay. Let's go to the next paragraph.

12 Any statements in that paragraph?

13 A. Down at the bottom, it states --
14 starts with "The staff member present at the
15 time," the she that they refer to in there was
16 Yvonne McGuire.

17 Q. okay.

18 A. The day shift LPN.

19 Q. okay.

20 A. The date that she claims that this
21 happened, she was off, and, in fact, the date
22 that the medication was ordered was on the day
23 that she was off.

24 Q. okay.

25 A. And she wrote her statements up

1 B. Pierce - by Mr. Eddy

2 several days after this whole sending the
3 medication back, so on and so forth, occurred.

4 Q. So you have a problem with that is
5 it sentence?

6 A. Yes. Because she's -- she's
7 known -- she's known to have been hostile
8 against me, making false allegations from day
9 one that I walked into Cambridge Springs.

10 Q. How about it starts with, "He
11 responded to," and then we go to the next page?

12 MR. SANDERS: He's already
13 responded about this hush tones.

14 MR. EDDY: True.

15 MR. SANDERS: The rest of that
16 paragraph is the conclusion.

17 BY MR. EDDY:

18 Q. This is a little different because
19 here it's saying that if you engaged in hush
20 tone speech, it was something about for the
21 privacy about the inmate's personal health
22 concerns versus not making them at all. So I
23 guess what I'm asking you is did you make --

24 MR. SANDERS: Let him ask the
25 question.

1 B. Pierce - by Mr. Eddy

2 A. Go ahead.

3 Q. Did you make the comments in hush
4 tone, but your position is that they would have
5 been about some health -- private health matter
6 about the inmate as opposed to the RSAT program
7 or something like that?

8 A. That's correct. If I made any
9 statements at all to her in hush tones, it
10 would have been in regards to that three letter
11 word that we talked about.

12 Q. Right, right.

13 A. Because that's confidential.

14 Q. Do you recall actually having that
15 conversation?

16 A. No, I don't.

17 Q. Do you know what they are talking
18 about here? Is that possible that's what is
19 going on? You might have been talking to her
20 about the three-letter word that we haven't
21 mentioned?

22 A. If -- I don't have any recollection
23 of that at this time.

24 Q. Would you do that? Does that sound
25 like you?

1 B. Pierce - by Mr. Eddy

2 A. Oh, yes. It's confidential
3 information.

4 Q. Right. I understand.

5 A. You don't want to blurt that out
6 over the top of everything.

7 Q. All right. The next is, "The
8 committee found," we don't need to worry about
9 that.

10 How about down there after inmate,
11 he would "hook her up," his response that it
12 was an error -- no, no. That's another
13 conclusion. Okay.

14 well, did you respond that it was an
15 error?

16 A. In response to that it was an error
17 is disputed by the fact that he was clearly
18 told that the medication --

19 MR. SANDERS: Don't read it
20 out loud. These judges are just human beings.

21 Q. We are talking about a 60-day supply
22 versus --

23 MR. SANDERS: The question you
24 didn't answer, you didn't withdraw it. Did you
25 say this stuff or didn't you? That's the

1 B. Pierce - by Mr. Eddy

2 question.

3 THE WITNESS: At this time, I
4 don't recall that, but it's possible that I did
5 say that.

6 BY MR. EDDY:

7 Q. That it was an error? You've
8 already acknowledged that you ordered the
9 60-day supply; correct?

10 MR. SANDERS: Let's get an
11 answer before the lawyer asks the next
12 question.

13 THE WITNESS: Okay.

14 MR. SANDERS: Is it possible
15 that you said those words, that it was an
16 error, or is that a fabrication that you said
17 that?

18 THE WITNESS: No, it's
19 possible.

20 BY MR. EDDY:

21 Q. Okay. The rest look like
22 conclusions.

23 Let's go down to April 5. The first
24 sentence is a conclusion. How about after DOC
25 policy 13.4.1, during the PDC Mr. Pierce

1 B. Pierce - by Mr. Eddy
2 admitted he did not follow procedures for
3 distribution of medication in the RHU, did you
4 make that admission?

5 A. No, I did not.

6 Q. Did you acknowledge that you
7 prepoured the medications and put them in cups
8 and carried them to the RHU?

9 A. No, I did not.

10 Q. Did you claim you were confused
11 about these procedures?

12 A. No.

13 Q. Do you remember having discussions
14 about RHU procedures on August 28, 2001, and
15 again on March 11, 2002?

16 A. Yes. Those were false allegations
17 brought forward by the female staff in
18 retaliation for the write-ups.

19 Q. It says that you acknowledged that
20 to the CHCA. Who is that? What's CHCA?

21 A. Chief Health Care Administrator.

22 Q. And that he understood and would
23 abide by the policy. Do you remember that?

24 A. Yes.

25 Q. The rest looks like you go down

1 B. Pierce - by Mr. Eddy
2 almost to about two-thirds of the way down, it
3 says, "During the fact-finding, Mr. Pierce
4 denied these allegations stating that other
5 staff members failed to crush the medications."
6 Do you remember that?

7 A. Yes.

8 Q. Denying that?

9 A. I remember denying allegations, yes,
10 and stating the statement there, yes.

11 Q. The rest looks like conclusions to
12 me. How about starting with April 9?

13 MR. SANDERS: You mean denying
14 your allegations or denying their allegations
15 about you?

16 THE WITNESS: Denying their
17 allegations about me.

18 MR. SANDERS: Thank you.

19 BY MR. EDDY:

20 Q. Do you deny on April 9 making any
21 conversation -- or comments, negative comments,
22 regarding the RSAT program?

23 A. Yes. I have already previously
24 testified to that.

25 Q. You deny, then, obviously a

1 B. Pierce - by Mr. Eddy
2 statement that "it was set up for them to fail
3 so that they would return," and that the DOC
4 programs were "a joke"?

5 A. Yes.

6 Q. You deny that?

7 A. Yes, I do.

8 Q. During the PDC then obviously you
9 would have to deny that you responded that that
10 was taken out of context, is that your
11 position, or are you denying that they were
12 made, period?

13 A. I am denying that what they are
14 talking about here, that I made these comments
15 to the inmates. These comments were group
16 comments, not in particular by me, with Nurse
17 Pietrzak, Nurse Heffern, and Nurse Zuber.

18 Q. You don't deny making the
19 statements, you are just saying they weren't
20 made in the presence of inmates; is that your
21 testimony?

22 A. No. My testimony is that the
23 context of which the statements, the
24 allegations against me were taken out of
25 context of somebody said this section, somebody

1 B. Pierce - by Mr. Eddy
2 said this section. There was general comments.
3 They took it and said that I said these things,
4 all of those things, to the inmates.

5 Q. Right. That's what was said at the
6 PDC. Here it says that you responded that that
7 was taken out of context, that it was actually
8 a conversation that you had with other staff,
9 not inmates.

10 A. Right.

11 Q. You were simply critiquing the
12 program; is that accurate? That was your
13 position, that you didn't do it in front of
14 inmates, you did it in front of staff, and that
15 you were only critiquing the program?

16 A. I personally was not critiquing the
17 program. It was a group discussion. We all
18 had opinions on it.

19 Q. The bottom line is the statements
20 were made, but they were made not to inmates,
21 you are saying they were made to other staff
22 members?

23 A. And they were made by other staff
24 members, not myself.

25 Q. You mean you didn't make them?

1 B. Pierce - by Mr. Eddy

2 That's my question. Are you denying that you
3 made the statements?

4 A. Yes.

5 Q. Period?

6 A. Yes.

7 Q. So then this next statement that you
8 responded that that was taken out of context
9 and it was actually a conversation you had with
10 others --

11 MR. SANDERS: He's saying --

12 Q. -- you are saying that's a lie?

13 MR. SANDERS: Yes.

14 A. Yes.

15 MR. SANDERS: It took 20
16 minutes, but we got there.

17 BY MR. EDDY:

18 Q. It looks like that would be it for
19 that document.

20 The next document is, I don't know,
21 it looks like about an eight or nine-page --

22 MR. SANDERS: Are you talking
23 about Exhibit R?

24 MR. EDDY: No, still Q.

25 Q. Is that Ms. McGuire that we've

1 B. Pierce - by Mr. Eddy
2 referred to earlier, this employee witness
3 statement dated 4/4/02?

4 A. Yes.

5 Q. Does it look like her signature?

6 A. That's her.

7 Q. Is that who we are talking about?

8 A. Yes.

9 Q. Then after that, there's a couple of
10 other statements that are attached. I just
11 want to see if you can identify the first one
12 dated 4/2/06. It looks like Kelly Winckler?

13 A. Yes.

14 Q. And who is Kelly Winckler?

15 A. She was the --

16 MR. SANDERS: 2006, we haven't
17 lived that long.

18 MR. EDDY: 4/2/02.

19 MR. SANDERS: 4/2/02.

20 MR. EDDY: I was being
21 optimistic. I might not live that long.

22 A. She was the ten to six LPN.

23 Q. The next one it looks like a
24 Caroline Hargenrater?

25 A. Yes.

1 B. Pierce - by Mr. Eddy

2 Q. who is she?

3 A. She was the night shift, essentially
4 the RN in charge. Not supervisor by title, but
5 that's what she functioned as.

6 Q. The third one looks like it's from
7 an S. Kidd?

8 A. Yes.

9 Q. who is that?

10 A. She was a female corrections officer
11 on the two to ten shift, I believe.

12 Q. I would assume that you would
13 disagree with these statements by Ms. McGuire,
14 Ms. Winckler, Ms. Hargenrater, and is it Ms.
15 or -- Kidd is male or female?

16 A. Female.

17 Q. And Ms. Kidd?

18 A. Yes. I vehemently deny those
19 things, object to them.

20 MR. EDDY: All right. The
21 last document is Exhibit R.

22 (Pierce Exhibit R was marked
23 for identification.)

24 Q. Is this essentially your termination
25 letter from Marilyn Brooks on behalf of Jeffrey

1 B. Pierce - by Mr. Eddy

2 Beard to you dated May 10, 2002?

3 A. Yes, it is.

4 Q. This would be the actual letter you
5 would receive where you were first notified
6 that your employment was terminated?

7 A. Yes.

8 Q. I'm not going to ask you to go
9 through this like the other documents, but does
10 it reiterate the ethics sections for which you
11 were charged violating?

12 A. It represents their standpoint, yes.

13 Q. That would be in connection with the
14 March 9, 10 incident, March 20 incident,
15 April 1, 5, and 9 of 2002 incidences that we've
16 been discussing here?

17 A. Yes.

18 Q. Did you appeal this decision to the
19 state Civil Service Commission?

20 A. No, I did not.

21 Q. Did you file a grievance?

22 A. No, I did not.

23 Q. In the Exhibit A to the doctor,
24 under the progress notes of 5/7/02, it says,
25 "Has grievance in for termination without just

1 B. Pierce - by Mr. Eddy

2 cause." What is that in reference to?

3 A. That's correct. I was mistaken when
4 I spoke that. Yes, we did file a grievance.
5 My senior union representative is Zollie,
6 Z-O-L-L-I-E, R-A-I-N-E-R.

7 Q. What was the result of that
8 grievance? Do you know?

9 A. It never went anywhere.

10 Q. Is it still pending?

11 A. No.

12 Q. You lost?

13 A. The union refused to pursue it.

14 Q. You were not granted any kind of
15 relief?

16 A. Correct.

17 Q. Do you have a copy of that opinion?

18 A. I don't believe so.

19 Q. Who would?

20 A. The union should.

21 Q. Can you obtain a copy?

22 A. I can try.

23 MR. SANDERS: Your client is a
24 lot better able to get it than we are. It
25 would have been served on management, as you

1 B. Pierce - by Mr. Eddy

2 well know.

3 BY MR. EDDY:

4 Q. Did you seek unemployment?

5 A. Yes, I did.

6 Q. What was the result of that?

7 A. It was denied.

8 Q. Do you have any records from that
9 hearing?

10 A. I believe I do.

11 Q. Do you have an ultimate conclusion
12 or finding of fact rendered in that case?

13 A. I believe I do.

14 Q. The decision, essentially?

15 A. I believe I do. I'm not 100 percent
16 certain at this time.

17 Q. Can you see if you have that and
18 supply that?

19 A. Yes.

20 Q. Do you know a Clifford Van Tassell?

21 A. Yes, I do.

22 Q. How do you know Cliff?

23 A. And I worked at SCI-Cambridge
24 Springs together. He was in maintenance, I was
25 in medical.

1 B. Pierce - by Mr. Eddy
2 statements that eventually led to his
3 dismissal. She actively pursued his dismissal
4 because he raised -- he blew the whistle on
5 her.

6 Q. Am I to take it now that you are
7 alleging that Marilyn Brooks is the one who is
8 involved in your termination and not all these
9 other people we've been talking about all day?

10 A. She's one of many. She's the one
11 who authored --

12 Q. Do you think that she masterminded
13 somehow your termination?

14 A. I think she played a tremendous role
15 in it.

16 Q. You think it's because of --

17 A. A lot of it is because of the Mike
18 White case and the association that I had with
19 him when I was at SCI-Albion. I was his
20 primary Defendant.

21 Q. That was back in what year?

22 A. 2000, September of 2000 when he was
23 terminated, and I was his vocal support.

24 Q. You've mentioned Michael White a
25 number of times and, again, I think he's not